

**Testimony of David W. Joos, CMS Energy Corporation
President and Chief Executive Officer, Consumers
Energy Chief Executive Officer, before the Michigan
House Energy & Technology Committee**

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Mr. Chairman and members of the Committee, good morning.

I'm Dave Joos, President and Chief Executive Officer of CMS Energy Corporation, and Chief Executive Officer of Consumers Energy, the corporation's primary subsidiary and Michigan's second largest utility. I appreciate the opportunity to present our views on important energy policy issues. Today I will describe for you Consumers Energy's current situation, provide our views on how to meet Michigan's energy needs, and review how the state has been impacted by PA 141, the state's electric choice law.

Consumers Energy

Consumers Energy works hard to keep its rates competitive, ensure high levels of customer satisfaction and provide reliable electric and natural gas service to our customers, which include 6.5 million of Michigan's 10 million residents. Our efforts have been recognized through multiple awards for superior service among our Midwest peers, including three J.D. Power awards over the past five years.

Consumers Energy's natural gas rates are among the very lowest in the nation, and our electric rates are below the national average. We're proud of both, especially since Michigan is at a significant electricity fuel cost disadvantage among our Midwest peers due to the lack of coal deposits in our state.

CMS Energy recently announced the sale of its international assets and a plan to invest heavily in our utility here in Michigan. These investments include large-scale projects to improve gas and electric distribution reliability, technology to improve customer service and better manage electric demand, and investment in badly needed new power plants in Michigan. These investments will create jobs here at home, produce tax revenues for the state and host communities that welcome these projects, and

provide economic multiplier benefits to these communities. We believe we can make these investments while keeping our rates competitive.

I understand that members of this committee have carefully studied the recently issued 21st Century Energy Plan. We applaud the development of this plan, which we believe provides a strong foundation for comprehensive energy policy legislation. One of the primary conclusions of the plan is that Michigan faces an electric supply shortfall.

Consumers Energy's peak electric demand this year is expected to be about 9,600 megawatts (MW). Like the 21st Century Energy Plan, our plan assumes growth in that demand, absent efforts to reduce it, of a little over 1%. That's about half of our actual load growth over the past decade, reflecting weakness in Michigan's economy that we'd all like to see change.

The 21st Century Energy Plan takes an aggressive view of our collective ability to reduce demand growth through conservation and energy efficiency programs, and to dramatically accelerate the role of renewable generation in the state. We've incorporated all of these changes into our own planning, though we've been a bit more conservative in our assumptions of what can be achieved through conservation efforts.

Despite all of these changes, demand for electricity continues to grow, powering increased use of air conditioning, consumer electronics, and other electric devices. As an example, increasingly popular plasma televisions use about four times as much electricity as conventional televisions.

Consumers Energy currently has a little over 8,100 MW of power plant capacity and long-term contracts. In recent years, we've become increasingly dependent on short-term purchases to meet customer demand, exposing our customers to market volatility. The gap between our capacity projection and the demand represents the additional sources of electric power needed between now and 2015, roughly 1,400 MW, assuming all of our existing sources remain available.

An additional factor in Michigan's electric supply picture is the age of our power plants. Consumers Energy's electric generating fleet is the second oldest in the United States, averaging nearly 50 years of age. While our older units have been well maintained, and we've not made specific plans to

shutter any of them, increasingly stringent environmental regulations or other factors could render these plants uneconomic over the coming decade.

Given the growing gap between supply and demand, the risk of future plant retirements, and the long lead time necessary to build new power plants, it's critical that new plant development begins soon.

Balanced Energy Initiative

Later this month, Consumers Energy will be filing our Balanced Energy Initiative with the Michigan Public Service Commission (MPSC), consistent with the certification process proposed by the 21st Century Energy Plan. The initiative reflects our Company's best thinking on how to meet our customers' energy needs over the next two decades in a balanced way.

It will propose an expansion of our Green Generation renewable energy program. Renewable energy – currently 5% of our electric supply – can be expanded here in Michigan, but we need to be both realistic about the type and amount of renewable generation that can be added over the next eight years, and sensitive to the rate impacts of higher-cost renewable generation on customers. It will also advocate a comprehensive energy efficiency, conservation and demand management plan.

Our initiative will provide more detail on our thoughts on new generating plants in Michigan, including preserving the key principle of diversity of fuel supply. Consumers Energy believes Michigan will benefit from a diverse mix of generating fuels including renewables, coal, natural gas and nuclear. Finally, our initiative will also lay out the policy changes that will be needed for that investment.

PA 141

Let me now turn to PA 141, Michigan's electric choice law. When enacted by the legislature and signed by Governor Engler in 2000, PA 141 was intended to move the state to an open-market, competitive system. However, unlike other states that implemented competition, Michigan's change only went part way, leaving us with a unique "hybrid" regulatory structure.

Few customers have chosen to take electric supply service from alternative energy suppliers; none have been residential customers. Much of the

savings for those who have can be attributed to avoidance of subsidies they were charged in utility rates, often referred to as “rate skewing.” Today, the number of customers who are choosing a different supplier is at its lowest point since PA 141 was passed, less than one out of every 3,000 customers on our system representing less than 3% of our peak load.

While PA 141 allows customers to choose their electric supplier, it does not excuse utilities from the obligation to serve those customers should they choose to return from alternative suppliers. Alternative energy suppliers have no similar obligation. Of course, customers are most likely to return to utility service when market prices for electricity rise above utility rates, which is exactly what has happened in recent years. Under the current law, they can do so without penalties. This hurts all utility customers because higher-cost market purchases needed to serve the returning load get spread to all customers.

While there have been limited benefits for a few customers, the uncertainty inherent in the “hybrid” structure does not support major investment in new baseload capacity by either regulated utilities or independent suppliers. A large baseload coal plant has a long lead time, taking between six and eight years to build, and involves billions of dollars of investment. The ability of customers to leave and return to utility service makes it very difficult to plan for and finance such a large investment since there is no certainty that these customers will be there to help pay for it once it is completed.

As acknowledged in the 21st Century Energy Plan, PA 141 must be reformed to allow for the development of major new generating plants. We believe there are three options for the legislature and governor to consider: 1) fully deregulate electric generation; 2) retain but limit and modify the hybrid model to address fairness issues and reduce uncertainty; 3) return to traditional regulation of electric generation. If we do nothing, major new power plants will not get built, and our customers will be increasingly exposed to price volatility in the wholesale market.

One option, moving to full competition, has been implemented in a number of states, and has resulted in the development of new generating plants in at least some of them. However, many of the states that have gone this route have seen the largest increases in customer rates in recent years. Some, like California, have returned to regulation after experiencing both severe reliability and financial repercussions.

Another option is the approach proposed by the 21st Century Energy Plan. The 21st Century Energy Plan would place restrictions on customers returning to regulated service after taking service from alternative energy providers, and would obligate customers taking choice in the future to bear some of the costs of new generating plants constructed by utilities on their behalf. While we agree with these provisions, they don't go far enough. To support the development of new baseload plants, we believe that the option of taking choice must be limited to a small percentage of customer load, and that all regulated rates must be devoid of any subsidies that affect utility competitiveness. We also believe that all policies that affect utility generating costs, including environmental standards, taxation, reserve requirements and other such costs, must apply equally to other market participants if the hybrid model is retained.

While theoretically possible, our view is that these issues will be at least as controversial as repeal of the law, and much more difficult and time-consuming to develop and implement, making it unlikely that Michigan's acute need for new baseload generation will be met. Our judgment, therefore, is that repeal of the choice provisions of PA 141 is Michigan's best course of action.

In concert with changes to PA 141, we endorse the 21st Century Energy Plan recommendation to adopt a new, up-front certification policy for major power plant investments. The policy would provide for MPSC oversight, with stakeholder input, over project design features, environmental controls, construction plans and costs. It would also require competitive bidding for the engineering, procurement, and construction of the plant to assure ratepayer impacts are minimized.

We also support the recommendation for recovery of certain financing costs during the construction period, minimizing total project costs and reducing rate impacts when the plant becomes operational.

Finally, I'd like to emphasize that the management and employees of Consumers Energy will continue to work hard to provide superior customer service at the lowest possible cost. Some have suggested that limitations on customer choice will eliminate our motivation to do so. I assure you this will not be the case.